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09/788,674

02/21/2001

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12/10/2008

EXAMINER

FADOK, MARK A

ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

12/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/788,674 | Applicant(s) RAZUMOV, SERGEY N. | |
| | Examiner MARK FADOK | Art Unit 3625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24,25,27,28,33,34 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24,25,27,28,33,34 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

The examiner is in receipt of applicant's response to office action mailed 5/20/2008, which was received 9/28/2008. Acknowledgement is made to the amendment to claims 24 and the cancellation of claims 1-23, 26,29-32, and 35-39.

In regards to the USC 101 and 112 rejection the amendment has overcome the rejection, therefore this rejection has been obviated.

The traverse of the rejection by applicant filed under 37 CFR 1.132 filed 9/16/2008 is sufficient to overcome the rejection of claims 24,25,27,28,33,34 and 40 based upon Vallabh in view of Khan. However, after further consideration and search a new rejection is provided below that was necessitated by amendment.

Examiner's Note

As another matter, the elements following the term "for" in claims 24,25 and 40 are given little patentable weight since the elements are not positively recited. The term "for" merely sets forth what a structural element is capable of doing and does not positively recite that structural element expressly performs the functionality in question. The "for" language should be replaced with more positive recited language. For example, instead of stating element A "for" perform function X, it should be stated that element A performs function X.

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 40 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not support that the pickup point is automatically released after the purchase is inspected.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unable to comprehend how the claim dependent on claim 33 further limits claim 33. It appears as if applicant is broadening claim 33 with the feature found in claim 34.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Turner (US 6,862,576).

In regards to claims 24 and 25, Turner teaches all the features of the instant claims. For instance, Turner teaches a locker system which permits secure delivery, or collection, of goods at a location and that can be associated with a single household or disposed centrally with respect to a plurality of households. A set of lockers, which may

Art Unit: 3625

be of different sizes, capable of being in different states, e.g. ambient, chilled, frozen, and which are lockable separately, is disposed at the location. In-residence IT systems including computer means, such as servers, permit householders to place on-line orders with retailers/service providers, such as over the Internet. Prior to order placement, an appropriate locker for the size and state of the goods is reserved, such as by the household server contacting a management server via an Intranet. An access code required for unlocking the reserved locker is supplied to the household server, and forwarded to the retailer/service provider over the Internet together with the order and reserved locker location information. The retailer/service provider downloads the access code onto an electronic key, such as a smartcard, which the delivery person uses at delivery time in conjunction with a controller having an appropriate key reader. The controller with key reader identifies the reserved locker to the delivery person and unlocks it. The delivery person can then open the locker and insert the goods. Subsequent closure of the locker, relocks it and is used to indicate to the household server that the delivery has been made (abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner in view of Joseph (5,635,906).

In regards to claims 27 and 28, Turner teaches delivery of products assembled by a third party, but does not specifically mention that the old and well known process of inspecting the package to assure that all the items have been correctly packaged for pick-up is present. Joseph teaches using a weight system to assure that all the products have been provided to the customer. It would have been obvious to include in Turner the use of the weight system as taught by Joseph, because this is a quick and efficient method to assure that all the ordered products have been included in the package for pick-up, thus quickly moving the customer from the pickup point so that another customer can use it for pick-up.

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner in view of Joseph (5,635,906) and further in view of In re Lindgerg.

In regards to claims 33 and 34 Ogilvie disclosed the claimed invention except the part about the arrangement being movable. It would have been obvious to one having ordinary skill in the art at the time of the invention to include in the arrangement placing rollers under the storage device to make it movable, since it has been held that

Art Unit: 3625

making an old device movable without producing any new and unexpected result involves only routine skill in the art. In re Lindgerg, 93 USPQ 23 (CCPA 1952).

Claim 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner in view of Joseph (5,635,906) and further in view of official notice.

In regards to claim 40, the combination of Turner and Joseph teaches automatically identifying the availability of a locker and completing inspection to indicate the conclusion of a transaction and releasing the purchased product (Joseph, col 2, line 50 – col 3, line 4), but does not specifically mention that the system automatically releases the purchase pickup point assigned to the customer after the purchase is inspected. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Turner and Joseph automatically releasing the station after the product is inspected, because this will increase customer satisfaction by not having to accept product that is not of the desired level of anticipated quality and would provide a means for leaving the product for return to the facility, thus saving time and aggravation of the customer..

Response to Arguments

Applicant's arguments with respect to claims 24,25,27,28,33,34 and 40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including
After Final communications labeled
"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Fadok/

Primary Examiner, Art Unit 3625

Application/Control Number: 09/788,674
Art Unit: 3625

Page 10